

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Southern California Edison Company (U 338-E) for Authority to Lease Communication Facility Sites and Antenna Equipment Locations to Nextel of California, Inc.

Application 02-05-023
(Filed May 7, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING
ON MOTION FOR PROTECTIVE ORDER**

Southern California Edison Company (SCE) and Nextel of California, Inc. (Nextel) seek an order allowing SCE to file under seal certain contract information in their proposed agreements for SCE's lease of space to Nextel. Nextel would use the leased space in expanding its wireless communications network.

As part of their application, SCE and Nextel have submitted under seal nine agreements, identified as master agreements and standard site agreements, that are part of their transaction. They also have submitted redacted public versions of the agreements. Applicants state that the agreements contain certain information that is confidential and commercially sensitive for SCE and Nextel.

The parties seek to maintain the confidentiality of terms of compensation to be paid by Nextel to SCE, certain terms of the agreements and their renewal periods, and monetary amounts for liquidated damages. According to Nextel, specific details about these matters could disclose to competitors material information about the economics and business plans of Nextel.

Commission decisions on confidentiality reflect an attempt to balance the market's need for information against a utility or third party's need for confidentiality of its business operations and strategy. In applying this balancing test, the Commission has consistently upheld the need for confidentiality in cases involving fiber optical lease agreements between competitive communications companies and electric utilities. (*See, e.g.*, Application 99-09-036, ALJ Ruling issued November 16, 1999.)

Applicants' motion states grounds for a protective order under Pub. Util. Code § 583 and General Order 66-C and authority there cited. The motion is unopposed. A public hearing on the motion is unnecessary.

Good cause appearing, **IT IS RULED** that:

1. The motion of applicants for a protective order is granted to the extent set forth below.
2. The redacted portions of nine agreements that are part of this application, which information has been submitted under seal, shall remain under seal for a period of two years from the date of this ruling, and during that period shall not be made accessible or disclosed to anyone other than Commission staff except (1) on the further order or ruling of the Commission, the Assigned Commissioner, the assigned Administrative Law Judge (ALJ), or the ALJ then designated as Law and Motion Judge, or (2) upon execution of an appropriate nondisclosure agreement by the party to whom disclosure is made.

3. If applicants believe that further protection of this information is needed after two years, applicants may file a motion stating the justification for further withholding the information from public inspection, or for such other relief as the Commission rules may then provide. This motion shall be filed no later than 30 days before the expiration of this protective order.

Dated May 24, 2002, at San Francisco, California.

/s/ Glen Walker
Glen Walker
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling on Motion for Protective Order on all parties of record in this proceeding or their attorneys of record.

Dated May 24, 2002, at San Francisco, California.

/s/ Antonina V. Swansen
Antonina V. Swansen

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.